

Introduced by Senator Wiggins

February 17, 2010

An act to amend Sections 25500.1, 25500.2, and 25502.1 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 1096, as introduced, Wiggins. Alcoholic beverages: tied-house restrictions.

The Alcoholic Beverage Control Act contains limitations on sales commonly known as "tied-house" restrictions, which generally prohibit a manufacturer, winegrower, manufacturer's agent, California winegrower's agent, rectifier, distiller, bottler, importer, or wholesaler from furnishing, giving, or lending any money or other thing of value to any person engaged in operating, owning, or maintaining any off-sale licensed premises. Existing law provides that, for purposes of these provisions, the listing of the names, addresses, telephone numbers or e-mail addresses, or both, or Internet Web site addresses, of two or more unaffiliated on-sale retailers selling wine or brandy, or both, and operating and licensed as bona fide public eating places selling the wine or brandy produced, distributed or imported by a nonretail industry member in response to a direct inquiry from a consumer received by telephone, by mail, by electronic Internet inquiry or in person does not constitute a thing of value or prohibited inducement to the listed on-sale retailer, if specified conditions are met.

This bill would revise the direct inquiry provisions to include any electronic inquiries from consumers, and would make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 25500.1 of the Business and Professions Code is amended to read:

25500.1. (a) Notwithstanding Section 25500, the listing of the names, addresses, telephone ~~numbers and/or numbers~~, e-mail addresses, or ~~web Internet Web~~ site addresses, of two or more unaffiliated on-sale retailers selling ~~wine and/or brandy~~ *wine, brandy, or both wine and brandy* and operating and licensed as bona fide public eating places pursuant to Section 23038 selling the ~~wine and/or brandy~~ *wine, brandy, or both wine and brandy* produced, ~~distributed and/or imported~~ *distributed, imported, or both distributed and imported* by a nonretail industry member in response to a direct inquiry from a consumer received by telephone, by mail, by electronic ~~Internet~~ inquiry or in person does not constitute a thing of value or prohibited inducement to the listed on-sale retailer, provided:

(a)

(1) The listing does not also contain the retail price of the product, and

(b)

(2) The listing is the only reference to the on-sale retailers in the direct communication, and

(c)

(3) The listing does not refer only to one on-sale retailer or only to on-sale retail establishments controlled directly or indirectly by the same on-sale retailer, and

(d)

(4) The listing is made by, ~~and/or produced by, and/or paid for~~ *produced by, or paid for, or any combination thereof*, exclusively by the nonretail industry member making the response.

For

(b) For the purposes of this section, “nonretail industry member” is defined as a manufacturer, winegrower, distiller of ~~wine and/or brandy~~ *wine, brandy, or both*, regardless of any other licenses held directly or indirectly by such person. Except as specifically provided above, any payment for, making or production, either directly or indirectly, listing the names, addresses, telephone ~~numbers and/or numbers~~, e-mail addresses, or ~~web Internet Web~~ site addresses, of on-sale retailers otherwise authorized by this

1 section by a wholesaler or by a wholesaler that also holds an
2 importer's license shall constitute the furnishing of a thing of value
3 or inducement to the listed on-sale retailers in violation of this
4 division.

5 SEC. 2. Section 25500.2 of the Business and Professions Code
6 is amended to read:

7 25500.2. (a) Notwithstanding Section 25500, the listing of the
8 names, addresses, telephone numbers, e-mail addresses, or *Internet*
9 Web site addresses, of two or more unaffiliated on-sale retailers
10 selling beer, wine, or distilled spirits, and operating and licensed
11 as bona fide public eating places pursuant to Section 23038 selling
12 the beer, wine, or distilled spirits produced, distributed, or imported
13 by a nonretail industry member in response to a direct inquiry from
14 a consumer received by telephone, by mail, by electronic ~~Internet~~
15 inquiry, or in person does not constitute a thing of value or
16 prohibited inducement to the listed on-sale retailer, provided all
17 of the following conditions are met:

18 (1) The listing does not also contain the retail price of the
19 product.

20 (2) The listing is the only reference to the on-sale retailers in
21 the direct communication.

22 (3) The listing does not refer only to one on-sale retailer or only
23 to on-sale retail establishments controlled directly or indirectly by
24 the same on-sale retailer.

25 (4) The listing is made by, or produced by, or paid for,
26 exclusively by the nonretail industry member making the response.

27 (b) For the purposes of this section, "nonretail industry member"
28 is defined as a manufacturer, including, but not limited to, a beer
29 manufacturer, winegrower, or distiller of alcoholic beverages or
30 an agent of that entity, or a wholesaler, regardless of any other
31 licenses held directly or indirectly by that person.

32 SEC. 3. Section 25502.1 of the Business and Professions Code
33 is amended to read:

34 25502.1. (a) Notwithstanding Section 25502, the listing of the
35 names, addresses, telephone numbers, e-mail addresses, or *Internet*
36 Web site addresses, of two or more unaffiliated off-sale retailers
37 selling the products produced, distributed or imported by a nonretail
38 industry member in response to a direct inquiry from a consumer
39 received by telephone, by mail, by electronic ~~Internet~~ inquiry or
40 in person does not constitute a thing of value or prohibited

1 inducement to the listed off-sale retailer, provided all of the
2 following conditions are met:

3 (1) The listing does not also contain the retail price of the
4 product.

5 (2) The listing is the only reference to the off-sale retailers in
6 the direct communication.

7 (3) The listing does not refer only to one off-sale retailer or only
8 to off-sale retail establishments controlled directly or indirectly
9 by the same off-sale retailer.

10 (4) The listing is made by, or produced by, or paid for,
11 exclusively by the nonretail industry member making the response.

12 (b) For the purposes of this section, “nonretail industry member”
13 is defined as a manufacturer, including, but not limited to, a beer
14 manufacturer, winegrower, or distiller of alcoholic beverages, or
15 an agent of those entities, or a wholesaler, regardless of any other
16 licenses held directly or indirectly by that person.